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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/536,692

09/28/2005

Mario Villena

56290.1501

9301

7590 08/28/2009
Homexperts, Attn: William Kennedy
10700 N Kendall Dr., Suite 401
Miami, FL 33176

EXAMINER

RUHL, DENNIS WILLIAM

ART UNIT	PAPER NUMBER
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3689

MAIL DATE	DELIVERY MODE
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08/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/536,692	Applicant(s) VILLENA ET AL.	
	Examiner Dennis Ruhl	Art Unit 3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 107,113,117-123,125-129,131 and 132 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 107,113,117-123,125-129,131 and 132 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/24/09 has been entered.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 107,113,117-123,125-129,131,132, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

For claims 113,121,127, the claims are found to contain new matter that is not supported by the specification as originally filed. The claimed step of accessing a database automatically with the computer system to identify a plurality of properties corresponding to the high resolution information is considered to be new matter. As best understood by the examiner, a user submits input that identifies a geographic region and the properties are identified based on the geographic region that was input, not based on the high resolution information. The properties are not identified by using

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the high resolution data, the input from the user identifies the geographic region that the properties are to come from. This step appears to be new matter that is not supported by the specification as originally filed. Where was this disclosed in the specification as originally filed? The examiner also feels that the limitation that recites the updating of the AVM is done for properties that do not have an AVM value already stored is also new matter. The specification as originally filed disclosed that the AVM values are calculated up front during a setup process. They are not calculated only when a query from a user is received, which appears to be what is claimed. This also appears to be new matter. Where does support come for this limitation? Applicant has also claimed that the DVS is now based on a confidence indicator with a statistical variance, absolute difference discounting of predetermined financial factors and comparisons of AVM values with prices. It was not disclosed in the specification as originally filed that the DVS was based on a confidence indicator with a statistical variance and the other variables all at the same time. The confidence indicator is a number that represents the accuracy of the AVM value itself, it was not disclosed as being used to determine the AVM value. The DVS is not calculated based on a confidence indicator with a statistical variance as applicant is now claiming. Where is this disclosed in the specification as originally filed? Also found to be new matter is the limitation that there is a predefined threshold of the confidence factor, such that when it is reached, the AVM and DVS is recalculated. Where was this disclosed in the specification as originally filed? The examiner has read the specification twice and cannot find where these limitations were originally disclosed. The claims appear to now contain a lot of new matter.

4. Claims 107,113,117-123,125-129,131,132, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

For claims 113,121,127, applicant has claimed that the DVS is based on a confidence indicator with a statistical variance, along with an absolute difference discounting of predetermined financial factors. Also claimed is that the updating is done based on weighted geographical and spatial differences. Also claimed is a threshold for the confidence indicator, that if reached, causes the AVM and DVS to be recalculated.

With respect to the weighting of the updating of the AVM, it does not appear that the specification enables one of skill in the art on how to go about doing what is claimed. This was briefly discussed in paragraph 89. It is stated that the AVM property adjustments can be weighted, but applicant never actually discloses how this is done, other than so state that one properly may value higher than another due to weighting. How does one configure the AVM calculation to take into account the claimed geographical and spatial differences? How exactly is the weighting accomplished? This is not disclosed by applicant. The general idea of weighting the variables was disclosed, but only in a generic sense and not with enough detail to allow one of skill in the art to make and use the invention without undue experimentation so that the AVM is adjusted by weighting with geographical and spatial differences. It concerns the

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examiner that this limitation is only discussed in one small paragraph of the specification and it was never disclosed how to do it with any meaningful amount of detail, but now is relied upon for novelty. The examiner does not feel that this feature is enabled under 112,1st.

With respect to the DVS being based on a confidence indicator with a statistical variance, there is no discussion in the specification of how one of skill in the art would do what is claimed. As stated previously, the confidence indicator is not used to calculate the DVS, it is used to represent the accuracy of the AVM value. How can one calculate the DVS based on the confidence factor for the AVM when this was not even disclosed in the specification as originally filed? This is not clear at all. One of skill in the art would have to essentially invent their own method to be able to do what is claimed because applicant has not disclosed how they accomplish this step. How is this done?

With respect to reciting that the DVS is also based on the discounting of various financial factors, how is this done? Applicant has disclosed the general concept of discounting financial factors in paragraph 29, but with minimal specificity. How is this done? How is the discounting actually being performed? All that is disclosed as an example is that a user may desire to discount properties that might pass the differential valuation requirement but that are encumbered by additional fees. It is noted though, that the applicant never disclosed how the discounting is done. One of skill in the art would be left simply guessing and inventing their own method to discount the financial

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factors because applicant has not disclosed how it is done. This does not appear to be enabled.

With respect to the threshold for the confidence indicator, that if reached, causes the AVM and DVS to be recalculated, how is this done? The examiner does not even see where this was disclosed in the specification as originally filed, so when reviewing the specification for guidance on how this is done, there is none found. The examiner does not see where this was disclosed with any amount of detail that would allow one of skill in the art to do what is claimed without undue experimentation.

In an overall sense, the examiner is concerned that the newly added claim limitations are directed to aspects of the invention that were only very briefly disclosed in only a generic sense and with no real substantive discussion on how one of skill in the art would actually go about and do what is claimed. The end result that applicant desires is claimed, but the specific manner by which that result is obtained is not disclosed so that one of skill in the art can do what is claimed. This presents enablement issues in the opinion of the examiner.

5. Applicant's arguments filed 7/24/09 have been fully considered but they are not persuasive.

Applicant has made numerous claim amendments and has argued that they render the claims patentable over the previously applied prior art. Upon reviewing the claims it is noted that they appear to contain new matter that is not supported in the specification as originally filed. Applicant has relied upon paragraphs 29-30,37-

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42,45,74,87,89-92 and figures 2 and 5-6 for support for the amendments to the claims.

Upon reviewing those portions of the specification it is noted that they do not support what is claimed as has been addressed by the examiner. Also, a lot of what is claimed is not seen as being enabled under 112,1st. Applicant has amended the claims to contain new matter, and to contain subject matter that is not enabled by the originally filed specification. The absence of a prior art rejection to the claims should not be taken as an informal indicator of allowable subject matter because much of the recent claim amendments are new matter and are not considered to be enabled. Applicant has gone outside the original disclosure in the most recent amendment.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 571-272-6808. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dennis Ruhl/
Primary Examiner, Art Unit 3689